



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

January 6, 2012

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name and title.

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

IMPLEMENTATION OF THE CALIFORNIA SUPREME COURT DECISION IN CALIFORNIA REDEVELOPMENT ASSOCIATION V. MATOSANTOS

A memorandum dated December 29, 2011 from County Counsel Andrea Sheridan Ordin provided background and a legal discussion of the issues related to the recent California Supreme Court decision in *California Redevelopment Association v. Matosantos*. This memo provides additional details regarding the implementation of the decision and the accompanying Attachment I provides further detailed information.

Background

The California Supreme Court recently delivered its decision in the *California Redevelopment Association v. Matosantos* case finding ABX1 26 (the Dissolution Act) constitutional, and ABX1 27 (the Alternative Redevelopment Program) unconstitutional. The Court's bifurcated decision means that all Redevelopment Agencies (RDAs) will be dissolved under the Dissolution Act, and will not have the opportunity to opt into continued existence under the Alternative Redevelopment Program.

Further, the Successor Agencies that will be created to take over from the former RDAs are:

- To continue to make payments on existing legal obligations;
- To continue the suspension of RDA activities and not incur any additional debt; and
- To wind down the affairs of the former RDAs and return the funds of liquidated assets to the Auditor-Controller, who will distribute to all taxing entities.

"To Enrich Lives Through Effective And Caring Service"

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Fiscal Impact on the County

Any tax increment remaining after the payment of former RDA enforceable legal obligations, pass-through payments, and limited administrative costs, will be distributed to the taxing entities as property tax. At present, the annual net loss to all RDAs for the County of Los Angeles General Fund is approximately \$453 million. In other words, if not for redevelopment, the County General Fund would receive an additional \$453 million annually. Additionally, the annual loss to RDAs for the Fire District is \$51 million, \$18 million for the Flood Districts, and \$8.5 million for the Public Library District. The actual tax increment revenue coming to the County and special districts will be whatever funds remain after the former RDA enforceable legal obligations, pass through payments, and administrative costs are deducted.

The actual amount of property tax that the County General Fund would receive will be based on the audit of each RDA's legal obligations. The Auditor-Controller is tasked with conducting an audit of each of the 71 active RDAs in the County. The audits are scheduled to be completed by July 1, 2012.

In addition, the recently released Governor's Budget for 2012-13 includes the dissolution of RDAs. The Budget predicts that approximately \$1.05 billion in additional statewide property tax revenue will be received by K-14 schools in 2011-12, which will offset the State's Proposition 98 General Fund obligation. The Budget estimates additional property tax revenues at \$340 million for counties statewide. The breakdown of the \$340 million by each county is unknown at this time; however, we will provide you that information as more details of the Governor's Budget become available.

ABX1 26 (Dissolution Act)

Redevelopment Agencies and Successor Agencies

Under the Dissolution Act, RDAs will be dissolved as of February 1, 2012. In their place, Successor Agencies will be created for each RDA (71 in the County of Los Angeles, see Attachment II). Although more detail is provided in Attachment I regarding RDAs and Successor Agencies, it should be noted that:

- The Successor Agency will be the sponsoring community (city) of the RDA unless it elects not to serve in that capacity. In that case, the Successor Agency will be the first taxing entity to adopt a resolution to elect to become the Successor Agency. Should no entity make the election, the Governor will appoint a three-member "Designated Local Authority" that will serve as the Successor Agency, until a local entity makes the election to do so.

In the case of the Community Development Commission of the County of Los Angeles (CDC), the County will become its Successor Agency unless it adopts a resolution opting not to by January 13, 2012. The County cannot otherwise be forced to become Successor Agency to any other former redevelopment agency;

- Successor Agencies will be responsible for activities including making payments on the former RDA enforceable legal obligations, disposing of assets and properties of the former RDA, expeditiously winding down the affairs of the redevelopment agency, and preparing a proposed administrative budget; and
- Employees of the former RDAs will become employees of the Successor Agencies, and collective bargaining agreements become legal obligations of the Successor Agencies. Further, according to the Dissolution Act:

Individuals formerly employed by redevelopment agencies that are subsequently employed by successor agencies shall, for a minimum of two years, transfer their status and classification in the civil service system of the redevelopment agency to the successor agency and shall not be required to requalify to perform the duties that they previously performed or duties substantially similar in nature and in required qualification to those that they previously performed. Any such individuals shall have the right to compete for employment under the civil service system of the successor agency.

Administrative costs of the Successor Agency are limited to no more than 5 percent of the property tax allocated to the Successor Agency for FY 2011-12, and up to three percent each succeeding year. Should the former RDA have administrative costs that are significantly above the 5 percent limit, it is unknown how the Successor Agency will abide by the employee protections listed above and keep administrative costs within the mandated limits. It is possible that the Successor Agency will have to absorb those costs.

Oversight Boards

An Oversight Board is intended to supervise the activities of the Successor Agency. The Oversight Board has a fiduciary responsibility to holders of Enforceable Obligations and the taxing entities that benefit from the distributions of property tax and other revenues from the former RDAs. It should be noted that the Oversight Board for each Successor Agency:

- Will consist of seven members appointed by:
 - County Board of Supervisors (two members, including one member of the public)
 - County Superintendent of Education (one member)

- Chancellor of California Community Colleges (one member)
 - Largest special district taxing entity, likely the Fire District in the County of Los Angeles (one member)
 - Mayor of the sponsoring community (one member)
 - A former RDA employee appointed by the Mayor (one member); and
- Will complete Oversight Board membership by May 1, 2012, and the Governor may appoint individuals to fill any positions vacant for more than 60 days.

The Dissolution Act does not appear to include any cost recovery for the provision of administration or legal counsel to the Oversight Boards. In addition, Oversight Board Members are not compensated and shall have personal immunity from suit for their actions taken within the scope of their responsibilities as Oversight Board members. Any individual may simultaneously be appointed to up to five oversight boards and may hold office in a city, county, special district, school district, or community college district. Beginning on July 1, 2016, the County must combine its 71 Oversight Boards into one Oversight Board. The membership appointments to that Board will be similar to the original appointment schedule.

County Auditor-Controller

- By July 1, 2012, the Auditor-Controller is required to conduct or contract an audit of each former RDA's assets and liabilities, including the amount and terms of RDA indebtedness and pass-through obligations, and provide the State Controller's Office with a copy of such audit by July 15, 2012. In addition, the Auditor-Controller will annually determine the amount of property tax increment that would have been allocated to a RDA and deposit that amount in a Redevelopment Property Tax Trust Fund (RPTTF), and allocate funds in the RPTTF established for each former RDA. The Auditor-Controller may charge the RPTTF for any costs incurred pursuant to their prescribed duties, including the cost of the audits.

Possible Future Legislation

The California Redevelopment Association and various housing and economic development advocates have expressed their intent to seek legislative modifications to: 1) delay the February 1st dissolution date; and 2) introduce new, reconfigured redevelopment and low and moderate housing programs. It should be noted that any urgency legislation that grants a delay would require a 2/3 vote and the Governor's signature. A delay would also seriously reduce the \$1.7 billion from RDAs that the State included in the 2011-12 Budget. Most importantly, any new or reconfigured redevelopment program approved by the Legislature will likely protect funding to

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schools, so the funds for new redevelopment would come from the other taxing entities (primarily counties).

CEO, in conjunction with County Counsel and Auditor-Controller staff, is preparing legislative proposals to address technical and other legal issues.

Given the complexities of this assignment and the significant fiscal impact on the County, we will be convening a working group that includes representatives from CEO, Auditor-Controller, and County Counsel. We will provide your Board with monthly reports on the progress of these efforts. In addition, we will also be working with CDC to facilitate the creation of that agency's Successor Agency. Details regarding the impact of the Act on CDC will be sent to your Board in a separate memorandum.

If you have any questions, please contact me, or your staff may contact Robert Moran at (213) 974-1130 or rmoran@ceo.lacounty.gov.

WTF:EFS
MZ:CA:RM:ef

Attachments

c: Executive Office, Board of Supervisors
Auditor-Controller
Community Development Commission
County Counsel

ABX1 26 (DISSOLUTION ACT)

Background

The California Supreme Court recently delivered its decision in the *California Redevelopment Association v. Matosantos* case finding ABX1 26 (the Dissolution Act) constitutional, and ABX1 27 (the Alternative Redevelopment Program) unconstitutional. The Court's bifurcated decision means that all RDAs (Redevelopment Agencies) will be dissolved under the Dissolution Act and will not have the opportunity to opt into continued existence under the Alternative Redevelopment Program.

Fiscal Impact on the County

According to redevelopment theory, as projects wind down and the debt of the RDAs is retired, tax increment would eventually be returned to the taxing entities. The Dissolution Act will significantly speed up the process of returning tax increment to the taxing entities; however, the current obligations of the RDAs must first be paid off.

Because the Dissolution Act does not include a continuation of the 20 percent set-aside for low and moderate income housing, the taxing entities will receive an increase in property taxes. However, until a determination can be made as to what current liabilities qualify as legal obligations, it will be difficult to provide an accurate estimate. The Dissolution Act does require an audit of each RDA, but those audits are not scheduled to be completed until July 1, 2012.

Further, the State Association of County Auditors (SACA) has requested, and the Auditor-Controller of the County of Los Angeles is currently pursuing, the Department of Finance and State Controller to approve audit procedures developed by SACA before the audits of the former RDAs begin.

On May 16, 2012, the Auditor-Controller must distribute those funds to Successor Agencies necessary for them to meet valid obligations; remaining funds will be distributed to all other taxing entities, including the County. It is important to note that this distribution will be based on pre-audit calculations, which may be adjusted following the audit reports which must be submitted to the State Controller by July 1, 2012.

ABX1 26 (Dissolution Act)

Redevelopment Agencies

- Continues the suspension and prohibition of most redevelopment activities in effect since June, 2011 (incur new debt, make loans, enter into contracts, amend existing agreements, etc);

- Requires RDAs to adopt an Enforceable Obligation Payment Schedule (EOPS) by January 13, 2012. The EOPS may include bonds, loans, pre-existing obligations, or any legally binding agreement or contract. Only payments listed on the EOPS can be made. RDAs must then submit the EOPS to the Successor Agency;
- Must preserve all assets; and
- RDAs are dissolved as of February 1, 2012.

Successor Agencies

- The Successor Agency will be the sponsoring community (city) of the RDA unless it elects not to serve in that capacity. In that case, the Successor Agency will be the first taxing entity to adopt a resolution to elect to become the Successor Agency. Should no entity make the election, the Governor will appoint a three-member "Designated Local Authority" that will serve as the Successor Agency, until a local entity makes the election to do so (see Health and Safety Code Section 34173(d)(3)). In the case of the Community Development Commission of the County of Los Angeles, the County will become its Successor Agency unless it adopts a resolution opting not to by January 13, 2012. The County cannot otherwise be forced to become Successor Agency to any other former redevelopment agency;
- Successor Agencies are created for each RDA (71 in the County of Los Angeles, see attached chart). All properties, buildings, leases, equipment and other assets of the former RDA (except for affordable housing assets described below) will be transferred to the control of the Successor Agency;
- Employees of the former RDAs will become employees of the Successor Agencies, and collective bargaining agreements become legal obligations of the Successor Agencies. Further, according to Health and Safety Code Section 34190(h):

Individuals formerly employed by redevelopment agencies that are subsequently employed by successor agencies shall, for a minimum of two years, transfer their status and classification in the civil service system of the redevelopment agency to the successor agency and shall not be required to requalify to perform the duties that they previously performed or duties substantially similar in nature and in required qualification to those that they previously performed. Any such individuals shall have the right to compete for employment under the civil service system of the successor agency.

- A Successor Agency is required to prepare an administrative budget for approval of the Oversight Board (see below) and pay administrative costs. Administrative costs of the Successor Agency are limited to no more than 5 percent of the property tax allocated to the Successor Agency for FY 2011-12, and up to three percent each succeeding year. Should the former RDA have administrative costs that are significantly above the 5 percent limit, it is unknown how the Successor Agency will abide by the employee protections listed above and keep administrative costs within

the mandated limits. It is possible that the sponsoring community will have to absorb those costs;

- Successor Agencies are granted all authority and duties of the former RDAs and are required to make payments on the “legally enforceable obligations” of the former RDAs according to a Recognized Obligation Payment Schedule, and wind down the affairs of the dissolved RDAs, including the sale of assets in a manner aimed at maximizing value as proceeds will be distributed to all taxing entities;
- With limited exceptions, the Dissolution Act expressly states that Enforceable Obligations do not include agreements, contracts, or arrangements between a former RDA and its sponsoring community (city), and that such agreements are invalid and not binding on the Successor Agency. These provisions do not apply to written agreements entered into prior to December 31, 2010 and a joint powers agreement (JPA) in which the RDA is a member of the JPA; and
- The sponsoring community (city) may elect to assume the housing functions and take over the housing assets of the former RDA, excluding amounts in the former RDA’s Housing Fund, along with related rights, powers, duties, and obligations thereby becoming a “Successor Housing Agency” to the former RDA. If the sponsoring community does not elect to become the Successor Housing Agency and assume the former RDA’s housing functions, those functions and all related assets, except the current balance of RDA housing funds, will be transferred to the local Housing Authority.

Oversight Boards

An Oversight Board is intended to supervise the activities of the Successor Agency. The Oversight Board has a fiduciary responsibility to holders of Enforceable Obligations and the taxing entities that benefit from the distributions of property tax and other revenues from the former RDAs. The Oversight Board for each Successor Agency:

- Will consist of seven members appointed by:
 - County Board of Supervisors (two members, including one member of the public)
 - County Superintendent of Education (one member)
 - Chancellor of California Community Colleges (one member)
 - Largest special district taxing entity, likely the Fire District in the County of Los Angeles (one member)
 - Mayor of the sponsoring community (one member)
 - A former RDA employee appointed by the Mayor (one member);
- Will complete Oversight Board membership by May 1, 2012, and the Governor may appoint individuals to fill any positions vacant for more than 60 days;
- Oversight Boards will, with the assistance of the audit, direct the Successor Agency to not pay those obligations that have not been deemed to be legally enforceable. While this could produce conflict between the Successor Agency and the Oversight

Board, it is the Oversight Board's prescribed duty to reduce the Successor Agency's liabilities and thus increase the net revenues returned to the taxing entities. The payment of liabilities not deemed legally enforceable would reduce the amount of available revenues to the taxing entities;

- Direct the Successor Agency to determine whether contracts, agreements, or other arrangements between the former RDA and private parties should be terminated or renegotiated to reduce the Successor Agency's liabilities and thus increase the net revenues to the taxing agencies;
- Approve the Successor Agency administrative budget;
- The Act does not appear to include any cost recovery for the provision of administration or legal counsel to the Oversight Boards;
- The actions of the Oversight Board of each Successor Agency will in turn be overseen by the Director of the Department of Finance and may be subject to disapproval or modification;
- Members are not to be compensated, and shall have personal immunity from suit for their actions taken within the scope of their responsibilities as Oversight Board members. Any individual may simultaneously be appointed to up to five oversight boards and may hold office in a city, county, special district, school district, or community college district; and
- Beginning on July 1, 2016, the County must combine its 71 Oversight Boards into one.

County Auditor-Controller

- By July 1, 2012, conduct or contract for an audit of each former RDA's assets and liabilities, including the amount and terms of RDA indebtedness, pass-through obligations, and provide the State Controller's Office with a copy of such audit by July 15, 2012;
- Annually determine the amount of property tax increment that would have been allocated to a RDA and deposit that amount in a Redevelopment Property Tax Trust Fund (RPTTF);
- Allocate funds in the RPTTF established for each former RDA as follows:
 - Auditor-Controller Administrative Cost Recovery
 - To pay pass-through payments to affected taxing entities in the amounts that would have been owed had the former RDA not been dissolved;

- To the Successor Agency to enable the Successor Agency to pay Enforceable Obligations of the former RDA;
- To the Successor Agency up to the defined limits to pay for administrative costs approved by the Oversight Board;
- And distribute to all taxing agencies any remaining balance in the Trust Fund as property taxes; and

Significant Dates

January 13, 2012	The sponsoring communities of the RDAs must inform Auditor-Controller if they do not elect to become the Successor Agency. Enforceable Obligation Payment Schedule is due.
February 1, 2012	RDAs are dissolved, replaced by Successor Agencies. All former RDA assets are transferred.
March 1, 2012	Successor Agency adopts Draft Recognized Obligation Payment Schedule (ROPS).
May 1, 2012	Names of Oversight Board Members are due to the Department of Finance.
May 1, 2012	Auditor-Controller must distribute to taxing entities all estimated property tax revenues associated with retired debt from the ROPS.
May 16, 2012	Auditor-Controller distributes funds to Successor Agencies.
July 1, 2012	Audit Reports must be completed.
July 15, 2012	Audit reports due to State Controller.

COUNTY OF LOS ANGELES
Redevelopment Agencies & Project Areas

ATTACHMENT II

Sup. Dist.	Agency	No. of Agencies	No. of CRA Project Areas	Sup. Dist.	Agency	No. of Agencies	No. of CRA Project Areas
1	Azusa		9	4	Artesia		1
1	Baldwin Park		6	4	Avalon		1
1	Bell		3	4	Bellflower		1
1	Bell Gardens		2	4	Cerritos		2
1	Claremont		4	4	Downey		5
1	Commerce		5	4	Hawaiian Gardens		1
1	Cudahy		4	4	La Mirada		5
1	El Monte		9	4	Lakewood		3
1	Huntington Park		5	4	Long Beach		7
1	Industry		4	4	Norwalk		3
1	Irwindale		3	4	Paramount		4
1	La Puente		1	4	Rancho Palos Verdes		1
1	Maywood		3	4	Redondo Beach		4
1	Montebello		4	4	Redondo Beach		
1	Monterey Park		8	4	Santa Fe Springs		7
1	Pico Rivera		3	4	Signal Hill		1
1	Pomona		13	4	Torrance		3
1	Rosemead		2	4	Whittier		<u>5</u>
1	South El Monte		3			17	54
1	South Gate		2				
1	Vernon		2	5	Alhambra		3
1	Walnut		1	5	Arcadia		1
1	West Covina		<u>6</u>	5	Burbank		4
		23	102	5	Covina		3
				5	Duarte		9
				5	Glendale		2
2	Carson		8	5	Glendora		6
2	Compton		5	5	La Verne		3
2	Culver City		4	5	Lancaster		7
2	Hawthorne		3	5	Monrovia		4
2	Inglewood		11	5	Palmdale		5
2	Lawndale		1	5	Pasadena		9
2	Lynwood		<u>5</u>	5	San Dimas		5
		7	37	5	San Gabriel		1
				5	Santa Clarita		1
3	Agoura Hills		1	5	Sierra Madre		1
3	San Fernando		6	5	South Pasadena		1
3	Santa Monica		5	5	Temple City		<u>1</u>
3	West Hollywood		<u>1</u>			18	66
		4	13				
					City of Los Angeles	1	37
					County of Los Angel	1	6
					Totals:	71	315